

FCC MAIL SECTION

Federal Communications Commission

DA 99-1354

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Before the
 Federal Communications Commission
 Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),)	MM Docket No. 99-64
Table of Allotments,)	RM-9485
FM Broadcast Stations,)	
(Genoa, Mt. Morris, and)	
Oregon, Illinois))	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: June 30, 1999

Released: July 9, 1999

By the Chief, Allocations Branch:

1. The Commission has before it the Notice of Proposed Rule Making, 14 FCC Rcd 2930 (1999), in this proceeding proposing two simultaneous amendments to the FM Table of Allotments. First, Station WOXM(FM), Channel 291A at Oregon, Illinois, would change its community of license to Genoa, Illinois on Channel 292A, with the modification of its construction permit accordingly. Second, WSEY(FM), Channel 239A at Mt. Morris, Illinois would change its community of license to Oregon, Illinois, without a change of channel, with the modification of WSEY(FM)'s construction permit accordingly. Farm Belt Radio, Inc. ("Farm Belt"), the original petitioner and current permittee of WSEY, and Marathon Media Midwest, L.P., ("Marathon"), the present permittee of WOXM(FM), filed comments supporting the Commission's proposal. No reply comments were filed. For the reasons discussed below, we are reallocating Channel 239A to Oregon, Illinois, and Channel 292A to Genoa, Illinois and modifying the license of Station WSEY(FM) and WOXM(FM) to operate on these stations, respectively.

2. When the original rulemaking petition was filed in this proceeding, Farm Belt was the permittee of both unbuilt FM Stations WSEY(FM) and WOXM(FM). Recently, the Commission approved the assignment of WOXM(FM)'s construction permit to Marathon. In their comments, both Farm Belt and Marathon incorporate by reference the showings made in the original petition for rulemaking. In addition, they both commit to apply for modifications of the construction permits of Stations WSEY(FM) and WOXM(FM) respectively, to operate on the reallocated channels and to construct the stations promptly.

3. As we stated in the Notice, Genoa is a community for allotment purposes. Genoa is an incorporated community with its own local government consisting of a full-time city manager, as well as its own police, fire and water/sewer departments, a post office and zip code. It is home to its own public schools serving over 1200 students, six churches, scouting programs, a Lion's Club, and over 20 other clubs and civic organizations, recreational facilities, a Chamber of Commerce, a museum and a full complement of businesses and other services consistent with a community of its size.

4. We believe that adoption of the instant proposal will result in a preferential arrangement of allotments consistent with the Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982). We recognized in the Notice that the proposed reallocation of Station WOXM(FM) from Oregon to Genoa

on Channel 292A will result in the smaller community of Genoa (pop. 3,038) obtaining a first local service and the larger community of Oregon (pop. 3,891) not having a first local service. However, we noted that when viewed as a whole, both change of community proposals appear to result in a preferential arrangement of allotments because of the three communities involved, the two largest (Genoa and Oregon) would have first local transmission services and the smallest would not. See, Blanchard, LA, 10 FCC Rcd 9828 (1995). We affirm our earlier assessment. The substitutions will result in a first local service being moved from the smaller community of Mt. Morris (2,919 people) to the larger community of Genoa (3,038 people) with Oregon (3,891 people) retaining an allotment of its own, albeit on a different frequency.¹ Although Channel 239A also represents the only allotment at Mt. Morris, Station WSEY(FM) is unbuilt. As we stated in the Notice we do not consider its removal to present the parallel concerns with loss of service associated by the removal of an operating station, as it does not constitute a service the public has become reliant upon. See, Sanibel and San Carlos Park, Florida, 10 FCC Rcd 7215 (1995); Pawley's Island and Atlantic Beach, South Minnesota, 7 FCC Rcd 8657 (1993) and Glencoe and LeSueur, Minnesota, 7 FCC Rcd 7651 (1992). In addition, all areas within the present 1mV/m contours of Station WSEY(FM), Mt. Morris, and WOXM(FM), Oregon, will continue to receive at least 5 aural services.²

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, that effective August 23, 1999, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Genoa, Illinois	292A
Oregon, Illinois	239A
Mt. Morris, Illinois	-----

6. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the authorization of Farm Belt Radio, Inc., for Station WSEY(FM), Channel 239A, Mt. Morris, Illinois, IS MODIFIED to specify operation at Oregon on Channel 239A, Illinois, in lieu of Mt. Morris, Illinois, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the permittee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and

¹ While the allotment of Channel 291A at Oregon is limited to an effective radiated power of 3kw, Channel 239A at Oregon may operate with full-class A facilities of 6 kw and will, therefore, serve a wider area and greater population than Station WOXM(FM) could have served at Oregon on Channel 291A.

²The coordinates for Channel 292A at Genoa are North Latitude 42-01-00 and West Longitude 88-49-00. The coordinates for Channel 239A at Oregon are North Latitude 41-59-04 and West Longitude 89-29-52.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

7. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the authorization of Marathon Media Midwest, LP., for Station WOXM(FM), Channel 291A, Oregon, Illinois, IS MODIFIED to specify operation on Channel 292A at Genoa, Illinois, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the permittee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant Section 1.1307 of the Commission's Rules.

8. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(K), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Farm Belt Radio, Inc., permittee of Station WSEY(FM), Oregon, Illinois, and Marathon Media Midwest, L.P., permittee of Station WOXM(FM), Genoa, Illinois, are required to submit a rule making fee in addition to the fee required for the applications to effectuate the changes in communities of license from Mt. Morris to Oregon, Illinois, and from Oregon to Genoa, Illinois, respectively.

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact, Arthur D. Scrutchins, Mass Media Bureau, (202) 418-2184.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau